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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/484,667	01/18/2000	D. Amnon Silverstein	10982103-1	9949

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EXAMINER

ROSENDALE, MATTHEW L

ART UNIT	PAPER NUMBER
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2612

DATE MAILED: 03/15/2004

11

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/484,667

Applicant(s)

SILVERSTEIN, D. AMNON

Examiner

Matthew L Rosendale

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM  
THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 20 January 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) 11-21 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 and 22-31 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Amendment***

The Affidavit filed on 1/20/04 under 37 CFR 1.131 has been considered but is ineffective to overcome the Hedberg reference.

The evidence submitted is insufficient to establish diligence from a date prior to the date of reduction to practice of the Hedberg reference to either a constructive reduction to practice or an actual reduction to practice.

In the instant case, the applicant has stated that conception of the claimed invention occurred prior to the effective filing date of the Hedberg reference with evidence to exhibits A and B disclosed in the affidavit. However, as stated by the application the second prototype which constitutes the reduction to practice was completed approximately 8 months from that date of exhibit B which was before the effective filing date of the reference. Therefore it is unclear from the evidence stated by the applicant in the affidavit that the prototype exhibit C was completed prior to the filing date of Hedberg and thus the applicant must prove diligence in the critical period to overcome the cited reference. 715.07(a) of the M.P.E.P. states that the actual dates of acts relied on to establish diligence must be provided. The actual date of conception is not provided only that it is prior to the effective filing date of Hedberg. The actual reduction to practice being exhibit C cited by the applicant also is listed without an actual date only that it was completed approximately 8 months from exhibit B with was prior to the filing date of Hedberg.

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Therefore according to the M.P.E.P. section 715.07(a), diligence must be shown in the critical period including all actual dates from conception after the effective filing date of Hedberg to the actual reduction to practice.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 1 – 10 and 22 – 29, and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hedberg in view of Suso et al.

Referring to claim 1, Hedberg discloses a process of operating a display device 1 in figure 6 comprising the steps of:

Displaying a cursor 15 and a plurality of icons 16 on the display 2;

Moving the display device;

Sensing motion of the display device;

Based on the motion direct by the user, the icons are repositioned in the display until the fixed cursor 15 is on a target icon of the plurality of icons; and the user can select the target icon (Col. 3, Line 23 – Col. 4, Line 50).

Hedberg discloses that the display device can comprise a mobile phone shown in figure 5. However, Hedberg does not disclose that the mobile phone comprises a camera. Suso discloses a mobile telephone comprising a camera housed between a display body and a control

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body. The mobile phone of Suso can be used for various purposes including the display of icons as shown in figure 7, including thumbnail images 20.

Therefore it would have been obvious to provide a camera as taught by Suso with the mobile phone and display device of Hedberg so that the user can capture and transmit images.

2. Referring to claim 2, the display of Hedberg only comprises a list of icons and a white background shown in figure 6. However, Official Notice is taken that it is well known to provide an image background to a computer display screen. By having an image as a background instead of a solid color, the icons appear to be fixed in space with regard to the background image on the display.

Therefore it would have been obvious to provide an image set as the background of the display device of Hedberg so that the display area can be made visually appealing to the user by setting an attractive image as the background for the icons.

3. Referring to claim 3, Hedberg discloses that the user moves the display device to scroll through the icons by showing different parts of the entire list of icons on the screen based on the direction in which the user moves the display device in free space (Col. 4, Lines 35 – 50).

Therefore by moving the display device to the left to view icons in that direction, icons currently on the display screen are displaced to the right so that icons located in the direction in which the user is moving the display device may be scrolled onto the display screen.

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4. Referring to claim 4, Hedberg discloses a mobile phone in figure 5 comprising a display device for displaying a plurality of icons as shown in figure 6. Hedberg does not disclose that the display device of figure 6 can be used as a viewfinder. However Suso discloses a mobile telephone comprising a camera housed between a display body and a control body shown in figure 7. The display body of Suso can be used a camera viewfinder 18 for image preview of an object (Col. 5, Lines 33 – 62).

Therefore it would have been obvious to provide a camera phone comprising the viewfinder as taught by Suso with the mobile phone and display device of Hedberg so that the user can preview an object before image capture to ensure a high quality image.

5. Referring to claim 5, Hedberg discloses a non-optical motion detector such as a gyroscope, strain gauge, piezo-electric, or equilibrium of force accelerometer etc incorporated in the display device (Col. 3, Lines 35 – 43).

6. Referring to claim 6, Hedberg discloses that the display device can comprise a mobile phone shown in figure 5. However, Hedberg does not disclose that the mobile phone comprises a camera. Suso discloses a mobile telephone comprising a camera housed between a display body and a control body as shown in figure 7.

Suso does not disclose an optical motion detector. However, Official Notice is taken that optical motion detectors are well known in the art for sensing motion in a camera.

Therefore it would have been obvious to provide a conventional optical motion sensor with the camera phone and display device of Suso and Hedberg so as to provide a means of detecting the user moving the display device to select a target icon.

7. Referring to claim 7, Hedberg does not disclose that the display icons are thumbnail images displayed on the mobile phone unit of figures 5 and 6. However, Suso discloses that it is well known to provide a mobile phone having a display portion for viewing icons such as thumbnail images.

As shown in figure 7 of Suso the mobile phone disclosed therein can be used for various purposes including the display of icons including thumbnail images 20.

Therefore it would have been obvious to provide the thumbnail image display of Suso with the display device of Hedberg so that the user can set a variety of icons as the target icons including thumbnails to be selected for full screen display.

8. Referring to claim 8, Suso discloses that a high resolution image can be displayed on the display portion corresponding a thumbnail image selected by the user. However, Suso does not disclose any image manipulation performed on the high quality image. Official Notice is taken that it is well known to provide image processing inside the camera so that captured images can be corrected for white balance, gamma, tone, black spot etc.

Therefore it would have been obvious to provide any known image processing means in the camera is Suso so that selected images that the user intends to keep can be processed to produce a finished image.

9. Referring to claim 9, Suso discloses that captured images may be transmitted to an external device via the transmitter on the phone portion of the camera (Col. 7, Lines 37 – 49).

10. Referring to claim 10, Hedberg discloses that when the target icon is selected by the user, it activates or starts the program associated with the icon (Col. 4, Lines 14 – 34).

11. Referring to claim 22, Hedberg discloses a process of operating a display device 1 in figure 6 comprising the steps of:

Displaying a cursor 15 and a plurality of icons 16 on the display 2;

Moving the display device;

Sensing motion of the display device;

Based on the motion direct by the user, the icons are repositioned in the display until the fixed cursor 15 is on a target icon of the plurality of icons; and the user can select the target icon (Col. 3, Line 23 – Col. 4, Line 50).

Hedberg discloses that the display device can comprise a mobile phone shown in figure 5. However, Hedberg does not disclose that the mobile phone comprises a camera. Suso discloses a mobile telephone comprising a camera housed between a display body and a control body. The mobile phone of Suso can be used for various purposes including the display of icons as shown in figure 7, including thumbnail images 20.

Therefore it would have been obvious to provide a camera as taught by Suso with the mobile phone and display device of Hedberg so that the user can capture and transmit images.



12. Referring to claim 23, Hedberg discloses determining a viewpoint for displaying a region of a given image based on the sensed motion of the user (Col. 3, Line 23 – Col. 4, Line 50).

13. Referring to claim 24, Hedberg discloses the given image comprising a collection of target icons shown in figure 2.

14. Referring to claim 25, Hedberg discloses a step of presenting different regions of the given image containing subsets of icons in accordance with the determined viewpoint based on the motion directed by the user (Col. 3, Line 23 – Col. 4, Line 50).

15. Referring to claim 26, Based on the motion direct by the user, the icons are repositioned in the display until the fixed cursor 15 is on a target icon of the plurality of icons; and the user can select the target icon (Col. 3, Line 23 – Col. 4, Line 50).

16. Referring to claim 27, Hedberg discloses a plurality of icons for selecting application programs and does not disclose thumbnails. However, Official Notice is taken that thumbnails are well known in the art as a means of displaying compressed image data. Therefore it would have been obvious to provide selectable thumbnails with the display device of Hedberg so a user can view multiple compressed images then select desired images to be viewed at higher resolutions.

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17. Referring to claim 28, Hedberg discloses that the motion of the display by the user is tracked and used to reposition the image comprising sets of icons on the display (Col. 3, Line 23 – Col. 4, Line 50).

18. Referring to claim 29, Hedberg discloses that the motion of the display by the user is interpreted to determine a sequence of regions of the given image comprising a plurality of icons to present on the display reflecting the tracked motion of the display device. A sequence of regions is displayed on the display in correspondence to the user's motion of the device (Col. 3, Line 23 – Col. 4, Line 50).

19. Referring to claim 31, Hedberg discloses a process of operating a display device 1 in figure 6 comprising the steps of:

Displaying a cursor 15 and a plurality of icons 16 on the display 2;

Moving the display device;

Sensing motion of the display device;

Based on the motion direct by the user, the icons are repositioned in the display until the fixed cursor 15 is on a target icon of the plurality of icons; and the user can select the target icon (Col. 3, Line 23 – Col. 4, Line 50).

Hedberg discloses that the display device can comprise a mobile phone shown in figure 5. However, Hedberg does not disclose that the mobile phone comprises a camera. Suso discloses a mobile telephone comprising a camera housed between a display body and a control

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body. The mobile phone of Suso can be used for various purposes including the display of icons as shown in figure 7, including thumbnail images 20.

Therefore it would have been obvious to provide a camera as taught by Suso with the mobile phone and display device of Hedberg so that the user can capture and transmit images.

20. Claim 30 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hedberg in view of Suso et al in further view of Sekine et al.

Referring to claim 30, Hedberg detects motion of the display device by using a micro gyroscope, strain gauge, piezo-electric, or equilibrium of force accelerometer and does not use sequential images due to the lack of an image capture means. However, Sekine discloses a method of detecting a difference signal between first and second image signals used to detect movement in the image sensing device (Col. 2, Lines 24 – 44).

With the combination of Hedberg and Suso where Suso provides an image sensing means, it would have been obvious to one of ordinary skill in the art to apply the motion detection method of Sekine and utilize the image sensing means of Suso to determine the motion of the display and image capture system of Hedberg/Suso so that extra motion sensing means disclosed by Hedberg such a micro gyroscope, strain gauge, piezo-electric, or equilibrium of force accelerometer can be eliminated making the overall device design simpler with less parts.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew L Rosendale whose telephone number is (703) 305-4909. The examiner can normally be reached on Monday - Friday 8: 00am-4: 00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wendy Garber can be reached on (703) 305-4929. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.


Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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